

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TENNESSEE  
AT CHATTANOOGA

SAMUEL D. CASTEEL,

Plaintiff,

v.

CAROLYN W. COLVIN,  
Commissioner of Social Security,

Defendant.

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Case No: 1:11-CV-8  
COLLIER/CARTER

**REPORT AND RECOMMENDATION**

**I. Introduction**

Plaintiff's Motion for Attorney's Fees Pursuant to 42 U.S.C. § 406(b) (Doc. 25), is before the undersigned having been referred by the District Court for a report and recommendation pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b).

**II. Discussion**

In order to recover attorney's fees under 42 U.S.C. § 406(b), the following conditions must be met:

- (1) The Court must have rendered a judgment favorable to Plaintiff;
- (2) The Plaintiff must have been represented by counsel; and
- (3) The Court finds the fee reasonable and not in excess of twenty-five (25) percent of the total of past due benefits to which Plaintiff is entitled.

Plaintiff moves for attorney fees pursuant to 42 U.S.C. § 406(b) in the amount of \$15,036.09 (Doc. 25). The request is in addition to the \$5,409.60 that will be paid to the attorney by the Social Security Administration. The total request is less than 25% of the award of past due benefits. The government does not oppose the requested award of attorney's fees (Doc. 26). I

conclude, based on the work performed, this fee is reasonable. Having reviewed the record, I conclude Plaintiff has met all requirements to receive fees under 42 U.S.C. § 406(b). For good cause shown, I RECOMMEND <sup>1</sup>

(1) The motion of the plaintiff's attorney for attorney fees pursuant to 42 U.S.C. § 406(b) (Doc. 25) be GRANTED.

(2) The plaintiff's attorney be awarded a fee in the sum of \$15,036.09 subject to reimbursement to the plaintiff of the EAJA attorney's fee award of \$5,409.60.

S / William B. Mitchell Carter  
UNITED STATES MAGISTRATE JUDGE

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<sup>1</sup>Any objections to this Report and Recommendation must be served and filed within fourteen (14) days after service of a copy of this recommended disposition on the objecting party. Such objections must conform to the requirements of Rule 72(b) of the Federal Rules of Civil Procedure. Failure to file objections within the time specified waives the right to appeal the District Court's order. *Thomas v. Arn*, 474 U.S. 140, 88 L.Ed.2d 435, 106 S.Ct. 466 (1985). The district court need not provide *de novo* review where objections to this report and recommendation are frivolous, conclusive or general. *Mira v. Marshall*, 806 F.2d 636 (6th Cir. 1986). Only specific objections are reserved for appellate review. *Smith v. Detroit Federation of Teachers*, 829 F.2d 1370 (6th Cir. 1987).